

From: Maurice Rickard
To: Microsoft ATR
Date: 1/23/02 2:49pm
Subject: Microsoft Settlement

I am deeply concerned about the DOJ's proposed settlement with Microsoft. The remedies outlined in the Proposed Final Judgement (PFJ) fail to address a number of Microsoft's anticompetitive practices, and ignore completely the many venues in which Microsoft pursues, protects, and extends its monopoly:

The PFJ doesn't take into account Windows-compatible competing operating systems

The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.

The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box -- operating systems that all use the Win32 API and are advertised as being "Windows Powered".

The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

The PFJ requires Microsoft to release API documentation -- but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft

Microsoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows.

Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.

The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft

Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating

systems.

The PFJ as currently written appears to lack an effective enforcement mechanism.

Until these and other problems with the PFJ are corrected, its remedies for Microsoft's anticompetitive behavior are indeed no remedies at all.

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